

REMARKS

Applicant replies to the Final Office Action mailed on April 13, 2007, within two months. Thus, Applicant requests an Advisory Action, if necessary. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments.

I. Status of Claims

Applicant amends claims 27, 44, 50-55, and 58 and cancels claim 49 without prejudice to filing one or more claims having similar subject matter in other patent applications. Claims 27-40, and 44, 47, 48, and 50-58 are now pending in the application.

II. Claims Rejected Under 35 U.S.C. § 103(a)

The Examiner has rejected the claims as being obvious in view of several references. Applicant respectfully disagrees with the Examiner that any of the claims as previously pending were obvious and therefore traverse the rejections. However, in the interests of compact prosecution, the claims have been amended as described below to even further differentiate them from the cited references.

Claims 27, 29, 31, 34, 38, and 44 are Patentable Over Eichelberger and Graham

The Examiner rejects claims 27, 29, 31, 34, 38, 39, and 44 under 35 U.S.C. §103(a) as being obvious when Eichelberger is viewed with Graham. Applicant respectfully traverses this rejection. To render a claim obvious, the references must teach or suggest all the claimed limitations. *MPEP §2142*.

Neither Eichelberger, Graham, nor any combination thereof, disclose, teach, or suggest a handling system with a structure wherein said "structure comprising a floor, a plurality of walls emanating from said floor at an angle greater than ninety degrees, and an open top defined by said plurality of walls, wherein said open top has a larger area than an area of said floor," as similarly recited in independent claims 27 and 44. Therefore, the cited references do not teach or suggest all of the claim limitations and this rejection is improper per *MPEP §2142*.

Moreover, defendant claims 29, 31, 34, 38, and 39 variously depend from claim 27, so defendant claims 29, 31, 34, 38, and 39 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features.

Claims 27, 29-31, 34, 39, 40, and 44 are Patentable Over Niedwiecki, Eichelberger, and Graham

The Examiner rejects claims 27, 29-31, 34, 39, 40, and 44 under 35 U.S.C. §103(a) as being obvious when Niedwiecki is viewed with Eichelberger and further in view of Graham. Applicant respectfully traverses this rejection.

Neither Niedwiecki, Eichelberger, Graham, nor any combination thereof, disclose, teach, or suggest a handling system with a structure wherein "structure comprising a floor, a plurality of walls emanating from said floor at an angle greater than ninety degrees, and an open top defined by said plurality of walls, wherein said open top has a larger area than an area of said floor," as similarly recited by independent claims 27 and 44. Therefore, the cited references do not teach or suggest all of the claim limitations and this rejection is improper per *MPEP §2142*.

Moreover, defendant claims 29-31, 34, 39, and 40 variously depend from claim 27, so defendant claims 29-31, 34, 39, and 40 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features.

Claims 27-29, 31-34, 36, 38, 40, 44, 47, and 48 are Patentable Over Yamashita and Eichelberger

The Examiner rejects claims 27-29, 31-34, 36, 38, 40, 44, 47, and 48 under 35 U.S.C. §103(a) as being obvious when U.S. Patent No. 6,182,717 to Yamashita ("Yamashita") is viewed with Eichelberger. Applicant respectfully traverses this rejection.

Neither Yamashita, Eichelberger, nor any combination thereof, disclose, teach, or suggest a handling system with a structure wherein said "structure comprising a floor, a plurality of walls emanating from said floor at an angle greater than ninety degrees, and an open top defined by said plurality of walls, wherein said open top has a larger area than an area of said floor," as similarly recited by independent claims 27 and 44. Therefore, the cited references do not teach or suggest all of the claim limitations and this rejection is improper per *MPEP §2142*.

Moreover, defendant claims 28, 29, 31-34, 36, 38, and 40 variously depend from claim 27, so defendant claims 28, 29, 31-34, 36, 38, and 40 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features.

Claims 32 and 33 are Patentable Over Yamashita and Heffel

The Examiner rejects claims 32 and 33 under 35 U.S.C. §103(a) as being obvious when Yamashita is viewed with Heffel. Applicant respectfully traverses this rejection. Dependant claims 32 and 33 variously depend from claim 27, so dependant claims 32 and 33 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features.

Claims 27, and 50-58 are Patentable Over Yamashita and Marshall

The Examiner rejects claims 49-58 under 35 U.S.C. §103(a) as being obvious when Yamashita is viewed with U.S. Patent No. 5,550, 532 to Marshall ("Marshall"). Claim 49 has been cancelled and the rejection of that claim is moot. However, claim 27 has been amended to include all the limitations set forth in cancelled claim 49 rendering it virtually identical to claim 49 and claims 50-55 and 58 have been amended to depend from claim 27.

The Examiner argues that Yamashita discloses the invention substantially as claimed except that it does not disclose a floor having walls emanating at an angle greater than 90 degrees and an open top being larger than the area of said floor. The Examiner the argues that Marshall discloses a containment vessel to capture leaks and spills beneath the dispenser and that it would be obvious to arrive at Applicant's invention as claimed when Yamashita and Marshall are viewed together.

In order for an obviousness rejection to be proper, the prior art must suggest the desirability of the claimed invention. *MPEP §2143.01*. Neither Yamashita nor Marshall suggest the desirability of the claimed invention.

Applicant asserts that the present invention deals with a Hydrogen handing system. Hydrogen has a boiling point of -252.87°C and does not leak in the same manner as gasoline. There is no need for a containment vessel as disclosed by Marshall to contain Hydrogen that might "spill" from the system disclosed by Yamashita and contaminate the surrounding ground as Marshall seeks to prevent. Moreover, Applicant's structure is designed to withstand an explosion of the hydrogen and other flammable substances. To withstand these explosions, the

structure is constructed from concrete, steel and other strong materials as described in paragraphs 0113 and 0114 of the specification as filed.

In contrast, Marshall's spillage containment vessel is designed to capture spills of liquid gasoline. The containment vessel can be constructed from plastic materials and lined with sensors as described in column 8, lines 57-52 to detect the presence of spilled liquid gasoline. Marshall describes how the vessel "is again a sensor itself" (column 10, lines 63-37). Marshall also describes how "fiber optical sensing means" can be used to detect gaseous vapors (column 11, lines 8-10).

The containment vessel disclosed by Marshall is a relatively fragile device compared to the concrete structure disclosed by Applicant. In fact, it is likely that the structure disclosed by Marshall would be destroyed in the event of an explosion of the magnitude for which Applicant's structure is designed to safely contain. Moreover, since Yamashita deals with Hydrogen, there would be no need to equip it with a containment vessel as disclosed by Marshall to capture Hydrogen "leaks."

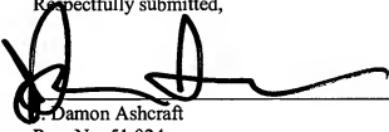
As required by *MPEP §2143.01*, neither Yamashita nor Marshall suggests the desirability of the invention as claimed. It would not be desirable to utilize the fragile containment device disclosed by Marshall to safely contain explosions that resulted from Yamashita's Hydrogen system because Marshall's device is very fragile, not built for such use, and would likely be destroyed in such an explosion. In view of the foregoing, claim 27 would not be obvious when Yamashita is viewed with Marshall per *MPEP §2143.01*.

Dependant claims 50-58 variously depend from claim 27, so dependant claims 50-58 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features.

CONCLUSION

In view of the above remarks and amendments, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as his invention and are allowable. Accordingly, Applicant respectfully requests allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience if that would help further prosecution of the subject application. Applicant authorizes and respectfully request that any fees due or overpayments be charged or credited to Deposit Account No. 19-2814.

Respectfully submitted,



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Dated: 6/12/07

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